POLICY NOTE

THE NATIONAL HEALTH SERVICE (GENERAL OPHTHALMIC SERVICES) (SCOTLAND) AMENDMENT REGULATIONS 2013

SSI 2013/355

The above instrument was made in exercise of the powers conferred by sections 2(5), 26, 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978. This instrument is subject to negative procedure.

Policy Objectives

The purpose of this instrument is to amend the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006 ("the 2006 Regulations") (SSI 2006/135) to:

- facilitate eye examinations undertaken at a place where the patient normally resides, referred to as domiciliary eye examinations
- remove the detail of the tests and procedures of a primary and supplementary eye examination and the data to be kept as part of a patient record. These tests and procedures are being moved into the Statement, which sets down the fees and allowances which are to be paid to ophthalmic medical practitioners and opticians;
- require Health Boards to undertake a 3 year rolling programme of inspection of practice premises; and
- make other minor drafting and tidying up amendments.

General Ophthalmic Services

General Ophthalmic Services (GOS), which comprises NHS eye examinations, can be undertaken at:

- practice premises;
- at the place where a patient normally resides, provided that patient cannot leave home unaccompanied because of physical or mental illness or disability; or
- at a Health Board approved day centre.

The fixed or mobile premises where GOS can be provided from must contain certain pieces of equipment, which are required in order to be able to undertake the tests and procedures of a primary or supplementary eye examination.

Primary and Supplementary Eye Examinations

The 2006 Regulations brought into effect two new NHS eye examinations, defined as primary and supplementary eye examinations. A primary eye examination can be undertaken in line with frequencies set down in the 2006 Regulations. All other examinations required at shorter intervals than these set frequencies are undertaken as supplementary eye examinations, with two prescribed exceptions.

There are a number of mandatory tests and procedures that should be undertaken as part of a primary eye examination as well as a number of additional tests and procedures that should

be undertaken depending on the patient's presenting signs and symptoms. These are currently set down in Schedule 3 to the 2006 Regulations. The circumstances where a supplementary eye examination can be undertaken and the tests and procedures which should be undertaken as part of that supplementary eye examination are currently set down in Schedule 4 to the 2006 Regulations. These mandatory and, where appropriate, additional tests and procedures require to be undertaken no matter the setting where the eye examination takes place.

There are a number of reasons why it is not possible for all of the eye examination tests and procedures required by the 2006 Regulations to be undertaken in a domiciliary setting. However, the 2006 Regulations as currently worded do not allow for a limited eye examination in these circumstances. Domiciliary eye examinations are vital for those who cannot leave home and so to facilitate such examinations revised tests and procedures have been agreed for examinations undertaken in a domiciliary setting. Similar problems arise where eye examinations are undertaken at approved day centres and so the revised tests and procedures will also apply to examinations undertaken in such centres.

The opportunity is also being taken to move the detail of the tests and procedures of a primary and supplementary eye examination from the 2006 Regulations to the Statement. The Statement is made under sections 28A and 28B of the National Health Service (Scotland) Act 1978 and regulation 17 of the 2006 Regulations and provides for the fees and allowances to be paid to ophthalmic medical practitioners and optometrists who provide GOS. This will more closely link the payment of eye examination fees to the requirement to carry out the prescribed tests and procedures and will help to simplify the 2006 Regulations. Regulations 10 and 11 of the instrument omit Tables A and B of Schedule 3 and Schedule 4 of the 2006 Regulations to provide for this.

The definition of primary eye examination and supplementary eye examination in regulation 2(1) of, and paragraph 14(1A) of Schedule 1 to, the 2006 Regulations are amended as a consequence of Tables A and B of Schedule 3 and Schedule 4 being omitted from the 2006 Regulations. Regulations 3(b) and (e) and 8(3) of the instrument provide for this.

The definition of required equipment in regulation 2(1) of, and paragraphs 4(f) of Part A and B and 2(b) of Part C of Schedule 2 to, the 2006 Regulations are omitted. This is as a consequence of the different tests and procedures for eye examinations to be undertaken in a practice setting to those in a domiciliary or approved day centre setting and the corresponding differences in equipment that will be required to undertake these tests and procedures. Regulations 3(d) and 9(b), (c) and (d) of the instrument provide for this.

Records

The data that should be kept as part of a patient's record is set down in Schedule 5 to the 2006 Regulations. To further simplify the 2006 Regulations the detail of this data is also being moved to the Statement. Again this will more closely link the records that must be kept for those patients who receive GOS to the payment of eye examination fees. The definition of records in paragraph 2(1) of the 2006 Regulations is revised as a consequence. Regulations 3(c) and 11 of the instrument provide for this.

Practice Inspections

A new regulation is being inserted to the 2006 Regulations which places a requirement on Health Boards to undertake a 3 year rolling programme of inspections of those practice premises where GOS are provided from in their areas. Regulation 7 of the instrument provides for this.

Other Amendments

Regulation 3(a) of the instrument amends the definition of mobile practice in regulation 2(1) of the 2006 Regulations to make it clear that such practices can provide domiciliary eye examinations at any place where a patient normally resides and not just at residential centres.

Regulation 14 of the 2006 Regulations allows for the disclosure of information about a contractor or assistant by a Health Board to certain specified persons or bodies. Regulation 14(2) and (7) of the 2006 Regulations are being amended to include NHS Education for Scotland in the list of persons or bodies which a Health Board can disclose information to. This will allow NHS Education for Scotland to obtain the information it needs in order to meet its responsibility for providing continuing education and training for those who provide or assist with the provision of GOS. Regulation 6(b) and (c) of the instrument provide for this.

Regulations 3(a), 4, 5, 6(a), (8)(1) and (2) and 9(a) of the instrument make minor drafting and tidying up amendments.

Consultation

Optometry Scotland has been consulted in the preparation of the instrument.

Impact Assessment

An Equality Impact Assessment has not been completed. The main purpose of the instrument is to amend an anomaly in the 2006 Regulations that is affecting access to eye examinations in a domiciliary setting. The instrument therefore corrects a situation that was impacting on equal access to NHS eye examinations The other amendments brought into effect by the instrument are technical and do not impact on equality issues.

Financial Effects

The Minister for Public Health confirms that no BRIA is necessary as the instrument has no financial effects on local government or on business. The financial effect on the Scottish Government will be met from the General Ophthalmic Services budget.

Scottish Government
Health and Social Care Integration Directorate
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